

The Zebra Dragnet

For more than five months, the tension had built up. A deranged assassin—perhaps more than one—was at large on the streets of San Francisco. So far, he had killed twelve people and wounded six. Frantic San Francisco police had only one clue: all the victims were white and the assassin black. Finally, armed only with two sketchy composite pictures of the so-called "Zebra" killer—drawn from descriptions provided by survivors—police cast the most sweeping dragnet in the city's history.

Under their own rules, the police could halt and investigate any black man between the ages of 20 and 30 who was of average build and between 5 feet 8 and 6 feet tall. Within a week, more

that the subject has committed a crime or is about to do so, or if a search warrant has been issued based on "probable cause." Those rules seemed to exclude the wholesale searches decreed in the Zebra case.

In the landmark 1961 case of *Mapp v. Ohio*, the U.S. Supreme Court held that evidence obtained during an illegal search could not be introduced in a criminal trial. Under that ruling, as U.S. Judge Alfonso J. Zirpoli noted in the hearing last week, if a suspect stopped on the street without probable cause happened to be carrying the Zebra murder weapon, it would be inadmissible evidence. "You would be defeating the prosecution," Zirpoli snapped at a police witness before granting the injunction.

The judge's ruling did not greatly

munity—and \$30,000 in reward money may help. But so far no police technique either new or old, had met with any hint of success. As of late last week the Zebra killer had not struck again, but neither were the lawmen any close to catching him.

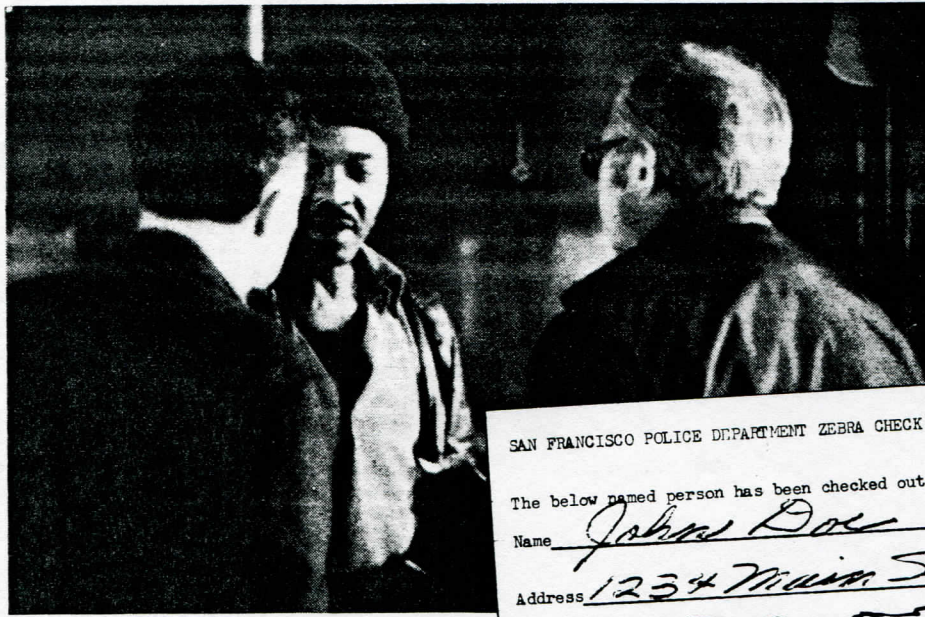
A Decision Not to Decide

Few legal cases are quite so freighted with wide-ranging social impact as those based on the Federal government's attempts to force schools and industry to carry out "affirmative action plans" designed to help blacks, other minority groups and women overcome the effects of discrimination. What has made these cases potentially explosive is the charge by those who fall outside the definition of minority groups, notably whites and Orientals, that the effect of these programs is "reverse discrimination."

Last week, the U.S. Supreme Court confronted two such cases, and in each instance it decided not to decide. In the first case, that of *DeFunis v. Odegaard* (NEWSWEEK, March 11), the Court voted 5 to 4 to declare the case "moot" meaning that events had run their course in such a way that there was nothing left to decide. Marco DeFunis had sued the University of Washington law school, charging that it had practiced "reverse discrimination" against him by denying him admission in favor of less-qualified minority students. But meantime he had been admitted to the school after a lower court decided for him. He will graduate next month—hence the High Court's ruling.

The Court also refused an appeal of a decision by a U.S. circuit court in the little-noticed case of *Associated General Contractors of Massachusetts v. Altshuler*. Here, the circuit court held that contractors working on public projects in Boston must hire at least 20 per cent minority workers. The Boston court practically invited the contractors to appeal to the Supreme Court by declaring: "This marks the first time, to our knowledge, that a court has been asked to sanction a plan for hiring a special percentage of minority workers," in other words, a quota. But the High Court simply let the lower court's ruling stand.

Escape: The DeFunis case offered the Court several convenient avenues of escape from what would have been a difficult and controversial decision. Not only had DeFunis finally been accepted at the law school, but he had filed suit solely on his own behalf, and not as class-action representing all white students. Meanwhile, most universities, like contractors, remain under Federal pressure to develop affirmative action plans that will increase their percentage of minority and women students and faculty members. Another test on the issue is certain to come in the near future, but the Supreme Court has now given the institutions perhaps a year or so to refine their procedures.



San Francisco search and a Zebra card: A word from Lord Camden

than 1,000 blacks were stopped and hundreds frisked. Then they were handed "Zebra cards"—to prove that they had already been checked in case they were stopped a second time. Not one could be tied to the killings.

Tactics: Predictably, the dragnet drew cries of "racism" from the black community. The NAACP and the American Civil Liberties Union immediately sought an injunction against the dragnet on the ground that it scandalously violated Fourth Amendment guarantees against unreasonable searches. Anglo-American courts have attempted for centuries to halt such freewheeling tactics: "If suspicion at large should be grounds for search, whose house would be safe?" wrote Lord Camden in 1765. Under the Fourth Amendment, courts have held that a police search is "reasonable" only during a lawful arrest, or if the policeman has reason to believe

trouble the San Francisco police, since even the cops admitted that the dragnet had been useless. "We've tried the stop-and-question tactics for six days," conceded chief inspector Charles Barca, "and it appears to be unproductive and ineffective." During the Federal court hearings, police chief Donald Scott introduced a new seven-page code to govern the searches. It offered such refinements to the art as a "contact" (an officer may check a subject but cannot detain him against his will), and a "stop" temporary detainment against the subject's will, long enough, for instance, to call the police station).

"The injunction," NAACP Legal Defense Fund attorney Cecil Poole told NEWSWEEK's Gerald C. Lubenow, "will improve police relations with the black community and will thus improve their work." Police will now depend in large part on the cooperation of the black com-